Supreme Court, U. S.
FILED
JUN 18 1980
MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1979

No. 79-1992

WAYNE C. LA VELLE, Petitioner
V
Workers' Compensation Appeals Board State of California
TRANS WORLD AIRLINES
LIBERTY MUTUAL INSURANCE CO.
INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS LOCAL 1111
DISTRICT 142 OF THE INT'L
ASSOCIATION OF MACHINIST
HARTFORD ACCIDENT & INDEMNITY CO.
Respondents

APPENDIX TO
PETITION FOR WRIT OF CERTIORARE
TO THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

WAYNE C. LAVELLE
45 Reed Bl. #2
Mill Valley CA
94941
PRO SE

June 18, 1980

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CONSTITUTIONAL PROVISION AND STATUES INVOLVED

FOURTEENTH AMENDMENT, SECTION 1 of the CONSTITUTION OF THE UNITED STATES

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S.C. §1257 (3) STATE COURTS; APPEAL; CERTIORARI

Final judgements or decrees rendered by the highest court of a State in which a decision could be had, may be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in ques-

tion the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exdrcised under, the United States. June 25, 1948, c. 646, 62 Stat. 929.

CALIFORNIA CONSTITUTION, ARTICLE 1 SECTION 13

Sec. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for

the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; but in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court and by counsel, and may be considered by the court or the jury. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide when there is reason to believe that the witness, from inability or other cause, will not attend at the trial (Amended Nov. 6 1934)

CALIFORNIA LABOR CODE §§ 5408. MINORS AND INCOMPETENTS

If an injured employee or, in the case of his death, any of his dependents, is under 21 years of age or incompetent at any time when any right or privilege accrues to such employee or dependent under this dicision, a general guardian, appointed by the court, or a guardian

ad litem or trustee appointed by the appeals board may, on behalf of the employee or dependent, claim and exercise any right or privilege with the same force and effect as if no disability existed.

No limitation of time provided by this division shall run against any person under 21 years of age or any incompetent unless and until a guardian or trustee is appointed. The appeals board may determine the fact of the minority or incompetency of any injured employee and my appoint a trustee to recieve and disburse compensation paymentsfor the benecit of such minor or incompetent and his family.

(stats. 1937, c. 90, p. 296, §5408. Amended by State 1965, c. 1513, p. 3590, §138, operative Jan. 15, 1966)

CALIFORNIA SUPREME COURT
ORDER DENYING HEARING

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

MAR 20 1980

I have this day filed Order

HEARING DENIED

In re: 1 Civ. No. 47704
Lavelle

vs.

W.C.A.B. et al.

Respectfully,

G. E. BISHEL
Clerk

68983-877 11-78 4M OBP

COURT OF APPEAL OF THE STATE
OF CALIFORNIA
in and for
FIRST APPELLATE DISTRICT
DIVISION ONE

WAYNE C. LA VELLE Petitioner v WORKERS COMPENSATION APPEALS BOARD, ET AL. Respondents	1 Civ. No. 47704 ORDER DENYING WRIT OF REVIEW

BY THE COURT:

The petition for writ of review is denied.

RACANELLI, P.J.

Dated FEB 22 1980

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE LA VELLE SS#363 46 2338 Applicant v TRANS WORLD AIRLINES LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case no. 74 LA 391 394 FINDINGS AND AWARD

Wayne C. La Velle, Applicant
(in propria persona)

Kendig, Stockwell & Gleason
by Steven Harris
Attorneys for Liberty Mutual
Insurance Company

****

Application having been filed herein, all parties having appeared, and the matter having been regularly submitted, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now finds , orders, and awards as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a ramp serviceman, air transport industry, at Los Angeles, California, on May 4, 1974, by Trans World Airlines, whose insurance carrier on said date was Liberty Mutual

Insurance Company, when he sustained an injury arising out of and occurring in the course of his employment to his left hand and arm.

2. Applicant's earnings were maximum for both temporary and permanent disability ($119.00-$70.00).

3. This injury caused further temporary disability beginning July 24, 1974, to and including July 26, 1974, for which indemnity is payable in the total sum of $51.00.

4. This injury caused no permanent disability.

AWARD

AWARD IS MADE in favor of WAYNE C. LA VELLE against LIBERTY MUTUAL INSURANCE COMPANY of temporary disability indemnity in the saum of $51.00 payable forthwith.

JESSE E FLUHARTY

EXECUTED: MAY 25 1979

Dated and Filed at Los Angeles, CA
Served by mail on person as shown on offical address record MAY 25 1979

Case No. 74 LA 391 394

WAYNE LA VELLE V TRANS WORLD AIRLINES
LIBERTY MUTUAL
INSURANCE COMPANY

Date of Injury:
May 4, 1974

Workers' Compensation Judge: JESSE E
FLUHARTY

Dated: July 3, 1979

REPORT OF WORKERS'S COMPENSATION JUDGE
ON PETITION FOR RECONSIDERATION

I

INTRODUCTION

Applicant, Wayne C. LaVelle, by occupation a ramp serviceman in the air transportation industry, age 28 on date of injury May 24, 1974, sustained an injury arising out of and occurring in the course of his employment to his left hand and arm when it was caught in the door of a car.

Decision complained of is one of a series of decisions which are being made in connection with a complex series of litigation initiated by this litigious person, in pro per.

Between August 21, 1970 and December 31, 1974, twelve cases have been filed. The court is in the process of deciding

each case individually which is becoming a long and laborious porcess indeed.

In connection with this particular case, the court stated in its Opinion on Decision that there is no permanent disibility because there is no medical evidence to show permanent disability.

The applicant now complains stating that there is medical evidence. However, the medical evidence which he has place in file is in connection with an incident ocurred in 1967, seven years prior thereto.

II

DISCUSSION

Petitioner is Applicant, in pro per. Decision issued on May 25, 1979. Petition for Reconsideration was filed on June 19, 1979, and because of the five day requirment for mailing is timely.

Petition has been filed by the applicant, served on opposing counsel, had been verified and consequently is legally effective. However, petition obviously is defective in that applicant refers to medical reports which are not germane either.

The court feels that the evidence supports the findings.

III

RECOMMENDATION

Petition For Reconsideration lack merit and it is respectfully recommended that petition be denied.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

Served by mail on: JUL 3 1979

Wayne C. LaVelle, 200 38th St. Apt B
Manhattan Beach, CA

16 Circle Dr #3
Tiburon, CA 94920

Kendig, Stockwell, and Gleason
8671 Wilshire Bl
Beverly Hills CA

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY	CASE NO. 74 LA 391 394 ORDER DENYING RECONSIDERATION

We have considered the Allegations of the Petition for Reconsideration and the contents of the report of the worker's compensation judge with respect thereto. Based on our review of the record, and for the reasons stated in said report which we adopt and incorporate,

IT IS ORDERED that said Petition for Reconsideration be, and it hereby is DENIED.

WORKERS COMPENSATION
APPEALS BOARD

I CONCUR,

Dated and filed at San Francisco CA
JUL 17 1979

Service by mail on said date to all partie, shown on the official adress record

WORKERS' COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE SS# 363 46 2338 Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY Defendants	Case No. 71 LA 371 256 FINDINGS AND AWARD

Wayne C. LaVelle, Applicant
(in propia persona)
Kendig, Stockwell & Gleason
by Steven Harris
Attorneys for Liberty Mutual
Insurance Company

****

Application having been filed herein, all parties having appeared, and the matter having been regularly submitted the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now find, awards, and orders as follows:

FINDING OF FACT

1. Applicant, Wayne C. LaVelle, born February 15, 1946, was employed as a ramp serviceman, air transportation industry, at Los Angles, California, on August 4, 1970, by Trans World Airlines, whose carrier on said date was Liberty

Mutual Insurance Company, when he sustained an injury arising out of and occurring in the course of his employment to his right knee.

2. Applicant's earnings were maximum for both temporary and permanent disability.

3. Applicant has been fully compensated for temporary disability for broken periods through August 1, 1973.

4. Applicant became permanent and stationary August 31, 1972.

5. Employment Development Department paid unemployment eompensation disability benefits for period beginning April 21, 1973 to July 29, 1973, at $105.00 per week concurrently with the period in which temporary disability payments were paid by defendants, however, there are no funds upon which to impress a lien.

6. This injury caused permanent disability of 8-1/4 per cent after apportionment, amounting to 33 weeks of disability payments at the rate of $52.50 a week in the total sum of $1,732.50 payable forthwith.

7. Medical treatment is required to cure or relieve from the effects of this

injury after notice of need made upon defendant.

8. Transamerica Credit Corporation advanced living expenses to the applicant subsequent to the injury of the reasonable value of $246.54.

9. Andre LaVelle advance living expenses to the applicant subsequent to the injury of the reasonable value of $660.00.

10. Applicant is entitled to self procured medical treatment expenses incurred payable as follows: $1,333.000 to Dr. R. Hunt, $50.00 to McGraw Medical Corporation, $431.00 to Glendale Memorial Hospital, $71.50 to Dr. R. Call, $967.80 to South Bay Hospital and $200.00 to Applicant.

11. Applicant reasonably incurred expense for medical reports to prove a contested case of the reasonable value of $150.00 payable to Dr. L Yamshon, $135.00 payable to Dr. R. Roback, and $200.00 payable to Mental Health Institute.

12. The reasonable value of the services of applicant's former attorney, Ermett C. Mathews, is $250.00.

13. Defendants did not unreasonably delay payment of benefits.

AWARD

AWARD IS MADE in favor of WAYNE C. LA VELLE against LIBERTY MUTUAL INSURANCE COMPANY of permanent disability indemnity in accordance with Finding 6 hereinabove; together with medical treatment in accordance with Finding 7 hereinabove; together with expenses for self procured medical treatment in accordance with Finding 10 hereinabove; together with medical legal costs in accordance with Finding 11 hereinabove; less $250.00 to Ermet C. Mathews in satisfaction of lien for attorney's fee herein allowed.

IT IS ORDERED that the lien claim of Employment Development be and it is hereby disallowed.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

EXECUTED:
APR 25 1979
Served on said date by mail on persons shown on official address record
by: _____

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE SS# 363 46 2338 Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 71 LA 370 927 FINDINGS AND AWARDS

Wayne C. LaVelle, Applicant
(in propria persona)
Kendig, Stockwell & Gleason
by Steven I. Harris
Attorneys for Liberty Mutual
Insurance Co.

****

Application having been filed herein, all parties having appeared, and the matter having been regularly submitted, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now finds, awards and orders, as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a ramp serviceman, air transportation industry, at Los Angeles, CA, on January 22, 1971, by Trans World Airlines, whose insurance carrier on said date was Liberty Mutual Insurance Company, when he sus-

tained an injury arising out of and occurring in the course of his employment to his right knee.

2. Applicant's earnings were maximum for both temporary and permanent disability.

3. Applicant has been fully compensated for temporary disability for broken periods through August 1, 1973.

4. Applicant became permanent and stationary August 30, 1972.

5. Employment Development Department paid unemployment compensation disability benefits for period beginning April 21, 1973 to July 29, 1973, at $105.00 per week concurrently with the period in which temporary disability payments were paid by defendant, however, there are no funds upon which to impress a lien.

6. This injury caused permanent disability of 1-3/4 per cent after apportionment, equivalent to 7 weeks of disability payments at the rate of $52.50 a week in the total sum of $357.50 payable forthwith.

7. Further medical treatment is required to cure or relieve from the effects of this injury after notice of

need made upon defendant.

8. Defendants did not unreasonably delay payment of benefits.

9. Lien claims have been determined in companion case 71 LA 371 256.

AWARD

AWARD IS MADE in favor of WAYNE LAVELLE against LIBERTY MUTUAL INSURANCE COMPANY of permanent disability indemnity.

in accordance with Finding 6 hereinabove; together with medical treatment in accordance with Finding 7 hereinabove.

IT IS ORDERED that the lien of Employment Development Department be and it is hereby disallowed.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

EXECUTED:

APR 25 1979

Served on said date by mail on persons shown on official address record

by:_____

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE CO. Defendant	Case No. 73 LA 380 935 Case No. 73 LA 380 934 FINDINGS AND AWARD

Wayne C. LaVelle, Applicant
(in propia persona)
Kendig, Stockwell & Gleason by
Steven I. Harris
Attorneys for Liberty Mutual
Insurance Co.

****

Application having been filed herein, all parties appeared, and the matter having appeared, and the matter having been regularly submitted, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now finds and orders as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a ramp serviceman, air transportation industry, at Los Angeles, California, on December 13, 1972, by Trans World Airlines, who insurance carrier on said date was Liberty Mutual Insurance Company, when he sustained an injury arising out of and

occurring in the course of his employment to his right knee.

2. This injury caused no temporary disability

3. This injury caused no increased permanent disability.

4. Further medical treatment to cure or relieve from the effects of this injury is not required.

5. Lien claims have been determined in the companion cases.

ORDER

IT IS ORDERED that applicant take nothing.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

EXECUTED:

APR 25 1979

Served on said date by mail on persons shown on official address record.

by:

WORKERS' COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 73 LA 380 936 FINDINGS AND ORDER

Wayne C. LaVelle, Applicant (in propria persona)

Kendig, Stockwell & Gleason, by Steven T. Harris

Attorneys for Liberty Mutual Insurance Co.

****

Application having been filed herein, all parties having appeared, and the mztter having been regularly submitted, the Honorable JESSIE E. FLUHARTY, Workers' Compensation Judge, now finds and orders as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a ramp serviceman, air transport industry, at Los Angeles, Ca, on February 12, 1973, by Trans World Airlines, whose insurance carrier on said date was Liberty Mutual Insurance Company, when he sustained an

injury arising out of and occurring in the course of his employment to his right knee.

2. Applicant's earnings were maximum for both temporary and permanent disability.

3. Applicant has been fully compensated for temporary disability which was paid February 13, 1973 to and including August 1, 1973.

4. Employment Development Department paid unemployment compensation disability benefits for period beginning April 23, 1973 to July 29, 1973, at $105.00 per week concurrently with the period of temporary disability herein, however, there are no funds upon which to impress a lien.

5. This injury caused no ratable permanent disability.

6. Lien claims have been determined in the companian cases.

ORDER

IT IS ORDERED that applicant take nothing.

Executed:
APR 25 1979

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES, ET AL Defendant	Case No.: 74 LA 392 377 74 LA 387 156 73 LA 380 934 73 LA 380 935 73 LA 380 936 74 LA 392 422 76 ING 38740

ORDER JOINING
PARTY DEFENDANT

GOOD CAUSE APPEARING

IT IS ORDERED that INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, Local Lodge No. 1111 and District Lodge 142, be joined as a party defendant herein in the above numbered cases.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

EXECUTED ON:
FEB 2 1977

Served on said date by mail on persons shown on the official address record.

by:_____

(Applicant is to serve copy of this order and application on newly joined parties.)

WORKERS' COMPENSATION APPEALS BOARD
State of California

WAYNE LA VELLE SS# 363 2338 Applicant v TRANS WORLD AIRLINES, LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 74 LA 387 156 ORDER OF DISMISSAL

WHEREAS application herein is for alleged specific incident of January 22, 1974, and continuing trauma;

WHEREAS in view of the fact that the within case merges into Case No. 74 LA 392 377 and is a duplicate of 74 LA 392 377;

IT IS HEREBY ORDERED that Case No. 74 LA 387 156 be and the same is hereby dismissed.

JESSE E. FLUHARTY
WORKERS' COMPENSATION
JUDGE

EXECUTED: February 25, 1980

Served on said date by mail
on persons shown on official
address record
by:_____

WORKERS' COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE SS# 363 46 2338 Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY; INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS LOCAL 1111; DISTRICT 142 of INTERNATIONAL ASSOCIATION OF MACHININSTS Defendants	Case No. 74 LA 392 377 FINDINGS AND AWARD

Wayne C. LaVelle, Applicant
(in propria persona)

Rose, Klein & Marias, by
Eugene Marias
Attorneys for International Association of Machinists, District Lodge 142, Local 1111

Kendig, Stockwell & Gleason, by
Steven I. Harris
Attorneys for Liberty Mutual Insurance Company**********

Application having been filed herein, all parties having appeared, and the matter having been regularly submitted, the Honorable JESSE E. FLUHARTY, Workers' Compensation Judge now finds awards and orders as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a ramp serviceman in the aircraft industry in Los Angeles, California, during the period August 4, 1972 to an including October 25, 1974, by Trans World Airlines, whose workers' compensation insurance carrier during the above period was Liberty Mutual Insurance Company, when he sustained injury arising out of and occurring in the course of his employment resulting in emotional and mental illness.

2. Applicant was also employed as a shop steward during the period June 1, 1971 to and including December 31, 1972, by Local Lodge 1111 of the International Association of Machinists and Aerospace Workers, which was uninsured for workers' compensation purposes during the above-mentioned period, and sustained injury as indicated in Finding of Fact 1 hereinabove.

3. Applicant was also employed as a shop steward during the period June 1, 1971 to December 31, 1972 by District 142 of the International Association of Machinists and Aerospace Workers', which

was uninsured for workers compensation purposes during the abovementioned period, and sustained injury as indicated in Finding of Fact 1 hereinabove.

4. Applicant's earnings were maximum for both temporary and permanent disability ($105.00 - $70.00).

5. This cause of action is not barred by the Statute of Limitations.

6. Medical treatment is required to cure or relieve from the effects of this injury. Liberty Mutual Insurance is designated to furnish and control medical treatment, subject to reimbursment by Local Lodge 1111 of the International Association of Machininsts and Aerospace Workers, to be adjusted by the parties.

7. This injury caused temporary disability beginning January 22, 1974 to and including February 28, 1974, for which endemnity is payable at the rate of $105.00 per week.

8. Employment Development Department paid unemployment compensation disability benefits and is allowed a lien for payments at the rate of

$105.00 per week, beginning January 30, 1974 to February 28, 1974, in the total sum of $450.00, for which period temporary disability was found herein.

9. This injury caused permanent disability after apportionment of 13-3/4 per cent, amounting the 45.25 weeks of disability payments at the rate of $70.00 a week in the total sum of $3,167.00, payable forthwith.

10. Liability of each defendant herein, Liberty Mutual Insurance Company, Local Lodge 1111 of the International Association of Machinists and Aerospace Workers, and Distict 142 of the International Association of Machinists and Aerospace Workers, is found to be joint and several.

11. Liberty Mutual is appointed managing carrier, subject to contribution to be worked out in separate proceedings.

12. Applicant is entitled to reimbursment for expenses of self-procured medical tratment required to cure or relieve from the effects of this injury in amounts to be adjusted by the parties, including but not limited to the sum of

$855.00 payable to Leonard Neff, M.D., and $1,375.00 payable to Valley Psychiatric Medical Clinic/Dr. Eisenberg, subject to reimbursment only for services provided to applicant during the period of injury herein.

13. The lien claim of Lien Services, Inc. for Connecticut General Life Insurance Company in the sum of $3,686.70 is for payments to doctors and hospitals for services to the applicant on dates prior to the period of injury herein and/or other parts of body injured and is hereby disallowed.

14. Applicant is entitled to reimbursement for medical-legal expenses in amounts to be adjusted by the parties including but not limited to $225.00 payable to Bruce Medical Group, $300.00 to valley Psychiatric Medical Clinic/ Dr. Eisenberg, and $150.00 to Law Offices of William C. Gordon in reimbursement for payment to Martin Blinder, M.D.

15. A penalty will not be imposed.

16. Applicant's former attorney, Hermet Mathews has been awarded a fee in Case 71 LA 371 256.

17. Applicant's former attorney, Law Offices of William C. Gordon, 66 Montgomery Street, Suite 600, San Francisco, Ca, 94104, has rendered services of the reasonable value of $350.00.

AWARD

AWARD IS MADE in favor of WAYNE C. LAVELLE against LIBERTY MUTUAL INSURANCE COMPANY, LOCAL LODGE LLLL OF THE INTERNATIONAL ASSOCIATION OF MACHININSTS AND AEROSPACE WORKERS, jointly and severally with LIBERTY MUTUAL INSURANCE COMPANY as managing carrier in accordance with Finding 11 hereinabove; of temporary disability indemnity in accordance with Finding 7 hereinabove; together with permanent disability indemnity in accordance with Finding 9 hereinabove; together with medical treatment in accordance with Finding 6 hereinabove; together with reimbursement for self procurred medical treatment expenses in accordance with Finding 12 hereinabove; together with medical-legal costs in accordance with Finding 14 hereinabove; less $450.00 payable to Employment Development Department in satisfaction of its lien claim; less $350.00 to Law

offices of William C. Gordon, as attorney fee herein allowed.

IT IS FURTHER ORDERED that the lien claim of Lien Services Inc. for Conneticut General Life Insurance Company be and the same is hereby disallowed.

IT IS FURTHER ORDERED that STATE COMPENSATION INSURANCE FUND be and it is hereby dismissed as party defendant herein.

JESSE E. FLUHARTY
WORKERS COMPENSATION
JUDGE

EXECUTED: February 25, 1980
Served on said date by mail on persons on official address record
by:_____

WAYNE C. LAVELLE
Case No. 74 LA 392 377

Notation directing the Court to an ommission to Judge's opinion on Petition on Reconsideration on Workers' Compensation Appeals Board Case No. 74 LA 392 377.

The Above opininion on reconsideration has been omitted in printing this appendix because (1) the length of the report is 13 full pages, (2) it involves three separate petitions for reconsiderations, and (3) the final order by the board reflects their traditional view expressed throughout the printed cases herein.

Upon issue of writ of Certiorari, Petitioner will include this portion of the record because it does evidence the incompetency of petitioner at the time of the trial.

CASE NO. 74 LA 387 156

WAYNE C. LA VELLE v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY

Worker's Compensation Judge; JESSE E. FLUHARTY

Dated: April 15, 1980

REPORT OF WORKERS' COMPENSATION JUDGE ON PETITION FOR REGNSIDERATION

I

INTRODUCTION

Applicant, Wayne LaVelle, a ramp serviceman in the airport industry, Age 28 on January 22, 1974, alleged date of injury, alleged emotional stress and emotional illness as a result of stresses incurred on the job while employed by Trans World Airlines.

Decision complained of is an Order of Dismissal issued on February 25, 1980. Petition for Reconsideration was filed March 24, 1980, which is 28 days after the filing of decision and is three days late, since 20 days is allowed in which to file and 5 days for mailing. However, the Board can, if it so desires, grant an extension on the petition for reconsideration on its own motion within 60

days period and it may desire to do so in view of the fact that the applicant is in pro per.

Petition is signed, verified and served upon opposing parties and consequently is not legally deficient.

Petitioner is applicant, in pro per, herein, and his contentions are that pleadings are incorrect and that even though the pleadings were filed by an attorney whom applicant had hired at the time, that he really meant for the pleadings to encompass a period instead of a specific incident.

II

DISCUSSION

The court considered this in its Opinion on Decision which is set forth below in haec verba:

This is a series of cases which were commenced with the filing of an application on November 10, 1971, in connection with an incident occurred August 4, 1970 to the applicant's right knee while employed as a ramp serviceman at Trans World Airlines.

Subsequent thereto as this litigation

progressed, applicant had other incidents and filed during the course of the litigation 12 applications, i.e., 11 additional ones.

There have been a number of hearings and stipulations were secured and issues framed at various hearings. Consequently those matters placed in issue will be discussed separately below.

Decisions have issued in ten cases and there are two cases left, as follows:
(a) 74 LA 392 377, date of injury Aug. 4, 1972 to and including October 22, 1974, alleging mental and emotional stress as a result of harrassment by International Association of Machinists and Aerospace Workers, Trans World Airlines and Liberty Mutual Insurance Co.

(b) 74 LA 387156, date of injury January 22, 1974, alleging emotional stress. The employer Trans World Airlines, and Liberty Mutual Insurance Company.

Each will be discussed separately below:

74 LA 387 156

The issues in connection with 71 LA 371 256 are as set forth in the Minutes of

Hearing of August 2, 1973 and were adopted by stipulation on Dec. 13, 1976, except that date of injury was stipulated to be January 22, 1974 and the injury was claimed to be emotional stress. This case must be dismissed.

The reasons therefor are as follows: Although applicant alleges a specific incident one notes that he alleges continuing trauma. The allegation in the application contains the following:

> "Persistent harassment and stress created by employer and applicant's superiors."

For something to be persistent it must exist over a period of time. Obviously applicant has not pleaded a specific incident.

Webster's Seventh New Collegiate Dictionary defines "persistent" as:

> "Continuing to exist for a long or longer than usual time."

After reading applicant's Petition for Reconsideration the court is still of the opinion that applicant is attempting to convert a specific incident into a cumulative trauma which cannot be done.

III

RECOMMENDATION

It is therefore respectfully recommended that Petition for Reconsideration lacks merit and should be denied.

JESSE E. FLUHARTY
WORKERS COMPENSATION
JUDGE

JEF:ch

Service by mail on April 15, 1980
by:_____

WAYNE LA VELLE, 45 Reed Bl. #2, Mill Valley, CA, 94941; KENDIG, STOCKWELL, GLEASON, 8671 Wilshire Bl, Beverly Hills, CA 90211; ROSE, KLEIN, & MARIAS, 888 W. 6th St., Los Angeles, CA; EMPLOYMENT DEVELOPMENT DEPT., P.O. Box 990, Glendale, CA 91209; WILLIAM GORDON, ESQ. 44 Montgomery St. #600, San Francisco, CA 94104; GOSHKIN, POLLATSEK, MEREDITH & LEE, 22 Battery St #810, San Francisco, CA 94111; STATE COMPENSATION INS. FUND, 5860 Uplander Way, Culver City, CA

WORKER'S COMPENSATION APPEALS BOARD

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES: LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 74 LA 387 156 ORDER EXTENDING TIME ON PETITION FOR RECONSIDERATION

GOOD CAUSE APPEARING THEREFOR,

IT IS ORDERED that the time for making decision on the Petition(s) for Reconsideration be, and is hereby, extended thirty days from and after April 19, 1980.

WORKERS COMPENSATION
APPEALS BOARD

Mervin Glow

Dated and filed at San Francisco, CA.

APR 17, 1980

Service by mail on said date on the persons listed below:

Wayne C. LaVelle, 45 Reed Bl #2, Mill Vally Ca 94941; Kendig, Stockwell & Gleason, 8671 Wilshire Bl., Beverly Hills, CA 90211; Goshkin, Pollatsek et al., 22 Battery St., San Francisco, CA 94111

WORKERS' COMPENSATION APPEALS BOARD

WAYNE C. LA VELLE, Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY; INTERNATIONAL ASSOC. OF MACHINISTS AND AEROSPACE WORKERS LOCAL LLLL; DISTRICT 142 of INT'L ASSOC. OF MACHINISTS Defendant	Case No. 74 LA 392 377 ORDER EXTENDING TIME ON PETITION FOR RECONSIDERATION

GOOD CAUSE APPEARING THEREFOR,

IT IS ORDERED that the time for making decision on the Petition(s) for Reconsideration be, and is hereby, extended thirty days from and after

April 17, 1980 (Defendant)
April 19, 1980 (Applicant)
April 20, 1980 (Lien Claimant)

WORKERS COMPENSATION
APPEALS BOARD

Mervin Glow

Dated and filed at San Francisco, CA

APR 17 1980

Service by mail on said date on the persons listed below:

Wayne C. LaVelle, 45 Reed Bl.#2, Mill Valley, CA 94941; Kendig, Stockwell & Gleason, 8671 Wilshire B., Beverly Hills

CA 90211; Rose, Klein & Marias, 888 W. 6th St. Los Angeles CA; Lien Services, 15251 Ventura Bl.,Sherman Oaks, CA 91403

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE CO.; INTERNATIONAL ASSOC. OF MACHINISTS AND AEORSPACE WORKERS LOCAL 1111; DISTRICT 142 OF INT'L ASSOC. OF MACHINISTS Defendants	Case No. 74 LA 392 377 74 LA 387 156 ORDER DENYING RECONSIDERATION

We have considered the allegations of the Petition for Reconsideration filed by applicant in Case No. 74 LA 392 377 and 74 LA 387 156 and the report of the workers' compensation judge in each case. Based on our review of the record, and for the reasons stated in said reports, in 74 LA 392 377 from pages 12 through 14 and in 74 LA 387 156, the entire report, which we adopt and incorporate, we deny applicant's Petitions for Reconsideration.

We have considered the allegations of the Petition for reconsideration by the International Association of Machinists and Aerospace Workers, Local 111, and District 142 of the International Assoc.

of Machinists in 74 LA 392 377 and the report of the workers' compensation judge. Based on our review of the record, and for the reasons stated in said report from pages 4 through 9, which we adopt and incorporate, we deny the Petition for Reconsideration.

We have considered the allegations of the Petition for Reconsideration filed by Lien Services, Inc., in 74 LA 392 377. Based on our review of the record, and for the reasons stated in said report, from page 10 to the top of page 12, which we adopt and incorporate, we deny Lien Services' Petition for Reconsideration.

IT IS ORDERED that the Petitions for Reconsideration filed herein be and they are hereby denied.

WORKERS COMPENSATION APPEALS BOARD

_____

I concur,

_____

_____

Dated and filed at San Francisco, CA
MAY 13 1980

Service by mail on all parties shown below at the adresses on the official address record.

Wayne C. LaVelle
Trans World Airlines
Assoc. of Machinists
Kendig, Stockwell & Gleason
Rose, Klein, Marias
Lien Services, Inc.
Liberty Mutual Ins. Co
Goshkin, Pollatsek, Meredith & Lee

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE LA VELLE SS# 363 46 2338 Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE CO. Defendant	Case No. 74 LA 392 422 FINDING AND ORDER

Wayne C. LaVelle, Applicant
(in propria persona)
Kendig, Stockwell & Gleason
by Steven Harris
Attorneys for Liberty Mutual
Insurance Co.

****

Application having been filed herein, all parties having appeared and the matter having been regularly submitted, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now finds and orders as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a ramp serviceman, air transport industry, at Los Angeles, CA, on March 13, 1974, by Trans World Airlines, whose insurance carrier on said date was Liberty Mutual Insurance Company, when he sustained an

injury arising out of and ocurring in the course of hisemployment to his hand and arm as a result of exposure to chemicals.

2. This injury caused no temporary disability.

3. This injury caused no permanent disability.

ORDER: IT IS ORDERED that applicant take nothing.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

EXECUTED:
MAY 25 1979

Dated and filed at Los Angeles, CA
served by mail on persons as shown on
official address record, date MAY 25 1979

WORKERS COMPENSATION APPEALS BORAD
State of CAlifornia

WAYNE C. LA VELLE Applicant v TRANS :WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 75 LA 394 945 FINDINGS AND AWARD

Wayne C. LaVelle, Applicant
(in propria persona)

Kendig, Sotckwell and Gleason
by Steven Harris
Attorneys for Liberty Mutual Insurance Company

****

Application having been filed herein, all parties having appeared, and the matter having been regularly submitted, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now finds, award, and orders as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born Jan 15, 1946, was employed as a remp serviceman at Los Angeles, CA on Dec 31, 1974 by Trans World Airlines whose insurance carrier on said date was Liberty Mutual Insurance Company, when he sustained an injury arising out of and occurring in the course of his employment

to his back.

2. Some medical tratment was furnished by the carrier.

3. Applicant's earnings were maximum for both temporary and permanent disability, ($119.-$70.00).

4. This injury caused temporary total disability for the period Feb 27, 1975 to April 16, 1975, for which indemnity is payable at the rate of $119.00 per week, less credit to defendants in the sum of $1,020.00 paid on account thereof.

5. This injury caused no permanent disability.

6. Further medical treatment to cure or relieve from the effects of this injury is not required.

7. Applicant did not incur expenses for self procured medical treatment.

AWARDS

AWARD IS MADE in favor of WAYNE LA VELLE against LIBERTY MUTUAL INSURANCE CO. of temporary disability indemnity in accordance with Finding 4 hereinabove.

EXECUTED:
JUN 28 1979
Served by mail

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

CASE NO. 75 LA 394 945

WAYNE C. LA VELLE V TRANS WORLD AIR
LIBERTY MUTUAL
INSURANCE COMPANY

Workers' Compensation Judge: JESSE E
FLUHARTY

ated: Aug 3, 1979

REPORT OF WORKERS COMPENSATION JUDGE
ON PETITION FOR RECONSIDERATION

I
INTRODUCTION

Applicant, Wayne C. LaVelle, by occupation a ramp serviceman, age 28 on date of injury, Dec 31, 1974, sustained injury arising out of and occurring in the course of his employment to his back, when he was bending and lifting as a ramp serviceman by Trans World Airlines.

Decision complained of is a findings of fact and conclusion of law and award issued by this court on June 28, 1979, and more specifically that portion thereof wherein it was found that there was no permanent disability.

Petitioner herein is applicant himself. The petition has been verified by the applicant has been made on the form supplied by the Board, consequently is legally effective. Decision issued

Jun 28, 1979. Petition for Reconsideration was filed Jul 23, 1979 within the 25 day period, consequently it seems to be timely.

The court examined the file carefully for evidence with respecr to this injury and medical reports with respect to this injury and set them forth in the Opinion on Decision which is set forth below in haec verba.

"PERMANENT DISABILITY

"According to Dr. John Cowan there was no permanent disability. He stated as follows:

> His case is stationary, but there are no factors to be rated.

"It should be noted that there is considerable evidence to the fact that his wife Marguerite exacerbated his condition when she kicked him. See the report of Paul Goodley, M.D. of Mar 1975:

> (Mrs. LaVelle reported) that she and Wayne had been in good spirits and that he was doing well, but that while he was kneeling and bending forward she inadvertently injured him by apparently kicking him "below the tail bone". She stated that he had fallen onto the floor of the living room,

> complaining of pain all over his back "from the top to the bottom". She stated that he had been on the floor for approximately one hour while she ad attempted to reach my (sic) by long distance, and it did take some persuasion before she told me the cause of the accident.

"In view of this evidence the court is of the opinion that any residuals applicant might have or to which he might complain could be allocated to the "horseplay" between him and his wife.

"In view of the above no permanent disability will be found/

II

DISCUSSION

Applicant is referring to medical reports in connection with other claimed incidents which are subject to litigation in connection with other cases.

As has been pointed out in the Opinion on Decision herein this is one of a series of cases, there being 12 in number. Most of the cases are concerned with a psychiatric claim and which will be decided at a later date. Applicant is attempting to confuse the issue by bringing in medical evidence in connection with the psychiatric case and introduc-

ing it into this record thereby confusing the results.

The court has carefully extracted from the record that material applying to the back and is of the opinion that there is no back disability as such.

III

RECOMMENDATION

It is therefore respectfully recommended that the Petition for Reconsideration lack merit and should be denied.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

JEF:ch

Served by mail AUG3 1979

on:

Wayne LaVelle
Kendig, Stockwell, Gleason
Lien Services
Martin Blinder, M.D.
Gordon, Holstein, Ropers
Steven Novam, M.D.

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE Defendants	Case no. 75 LA 394945 ORDER DENYING RECONSIDERATION

We have considered the allegation of applicant's Petition for Reconsideration and the report of the Worker's Compensation judge with respect thereto. We have also considered applicant's Supplemental Petition for Reconsideration filed Sep 6, 1979. Based on our review of the entire record, a review of the authorites cited by applicant, and the report and recommendation of the worker's compensation judge which we adopt and incorporate, we deny applicant's Petition for Reconsideration.

IT IS ORDERED that applicant's Petition for Reconsideration, including the Spplemental Petition for Reconsideration be, and is hereby, DENIED.

WORKERS COMPENSATION
APPEALS BOARD

I CONCUR.

CONCURRING BUT NO SIGNING

DATED AND FILED AT SAT FRANCISCO CA

SEP 14 1979

SERVICE BY MAIL ON SAID DATE TO ALL PARTIES LISTED ON THE OFFICIAL ADDRESS RECORD

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 76 ING 38740 ORDER AMENDING FINDINGS AND AWARDS

Clerical error having occurred,

IT IS ORDERED that Findings and Award issued herein October 17, 1979, be and it hereby is amended as follows:

In each and every instance where "Liberty Mutual Insurance Company" is printed, that "Hartford Insurance Company" be substituted.

JESSIE E FLUHARTY
WORKERS COMPENSATION JUDGE

JEF:egb

Dated and filed at Los Angeles, CA,
served by mail

OCT 22 1979

Second service on Applicant October 24, 1979 at 16 Circle Dr. #3, Tiburon, CA 94920

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY Defendant	Case No. 76 ING 38740 FINDINGS AND AWARD

Wayne C. LaVelle, Applicant
(in propria persona)

Kendig, Stockwell & Gleason
by Steven Harriss
Attorneys for Liverty Mutual
Insurance Company

****

Application having been regularly submitted, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, now finds awards and orders as follows:

FINDINGS OF FACT

1. Applicant, Wayne C. LaVelle, born January 15, 1946, was employed as a fleet service helper, air transportation industry at Los Angeles, California on July 13, 1976, by Trans World Airlines whose insurance carrier on said date was Liberty Mutual Insurance Company, when he sustained an injury arising out of andoccurring in the course of his employment.

2. Applicant's earnings were maximum for temporary and permanent disability compensation ($119.00-$70.00).

3. This injury caused temporary disability beginning July 13, 1976 through December 4, 1976, for which indemnity is payable at the rate of $119.00 per week, less credit for sums paid on account thereof, if any.

4. Applicant has returned to pre-injury status and there is no permanent disability.

5. Medical treatment is required to cure or relieve from the effects of this injury.

6. Applicant reasonably incurred medical legal costs in amounts to be adjusted by the parties.

7. Defendant failed to provide medical treatment to cure or relieve from the effects of this injury and applicant incurred expense therefore in an amount to be adjusted by the parties primarily payable to Marvin P. Eisenberg, M.D. and John May, Valley Psychiatric Clinic.

AWARD

AWARD IS MADE in favor of WAYNE C.

LA VELLE against LIBERTY MUTUAL INSURANCE COMPANY of temporary disability indemnity in accordance with Finding 3 hereinabove; together with medical treatment; together with medical legal costs to be adjusted by the parties; together with expenses for self procured medical treatment in accordance with Finding 7 hereinabove.

JESSE E FLUHARTY
WORKERS COMPENSATION JUDGE

EXECUTED:

OCT 17 1979

Served on said date by mail on persons shown of offical address record

by:_____

Second Service by mail on Applicant OCT 24 1979 at 16 Circle Dr. #3, Tiburon, CA 94920

by:_____

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LAVELLE Applicant v TRANS WORLD AIRLINES; LIBERTY MUTUAL INSURANCE COMPANY; HARTFORD INSURANCE COMPANY Defendant	Case No. 76 ING 38740 ORDER DENYING RECONSIDERATION

We have considered the allegations of the Petitions for Reconsideration and the contents of the report of the Workers' Compensation Judge with respect thereto. Based on our review of the record, and for the reasons stated in said report which we adopt and incorporate,

IT IS ORDERED that said Petitions for Reconsiderations be, and they hereby are, DENIED.

WORKERS COMPENSATION
APPEALS BOARD

I CONCUR,
Mirwin Stow

CONCURRING BUT NOT SIGNING
H.J. MARTIN

DATED AND FILED IN SAN FRANCISCO, CA
DEC. 13, 1979 Service by mail

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; HARTFORD INSURANCE CO. Defendant	Case. No. 76 ING 38740 OPINION AND ORDER GRANTING RECONSIDERATION ON BOARD MOTION (LABOR CODE § 5911) AND DECISION AFTER RECONSIDERATION

On December 13, 1979, the Board issued an Order Denying Reconsideration in this case. On December 21, 1979, counsel for defendant wrote to the Board in San Francisco (with a copy to applicant) inquiring as to whether or not the Board had made a clerical error in issuing its Order Denying Reconsideration at least as it pertained to the defendant's contention. Defense counsel stated in the letter, in part, as follows:

> However, a review of the report of Judge Fluharty with reference to the Petition of Hartford is to the effect that not only was said Petition for Reconsideration timely filed but that due process

> had been denied that defendant through inadvertence and consequently recommending that said defendant Petition for Reconsideration be granted. Before undertaking further proceedings, we are requesting that the Commission advise this office as to whether inadvertent error was committed with regard to Hartford's Petition for Reconsideration, and whether on reconsideration, the Board intends to reverse its previous Order and grant said Petition.

On further review of the file it appears that there was a clerical error and that only applicant's petition was actually disposed of. This is true even though the Order Denying Reconsideration refers to the "Petitions for Reconsideration". The Order is also inconsistent with the Report of Workers' Compensation Judge on Petition for Reconsideration which the Order purports to incorporate but, as to defendant's petition, does not do so.

We will grant reconsideration on Board motion and affirm the Order Denying Reconsideration as to applicant's petition and grant defendant's petition in accordance with the recommendation of

the workers' compensation judge in his report on reconsideration. We point out that even if we were not to act it is not unlikely that defendant would seek review of this matter by the Court of Appeal within the statutory period, resulting in further delay and the necessity of the Appeals Board confessing error.

Based on the foregoing,

IT IS ORDERED that reconsideration be, and it is hereby, GRANTED on Board motion.

IT IS FURTHER ORDERED that the Order Denying Reconsideration dated December 13, 1979 be, and it is hereby, AFFIRMED as to applicant's petition.

IT IS FURTHER ORDERED that the Order Denying Reconsideration as itpertains to defendant be, and it hereby, RESCINDED.

IT IS FURTHER ORDERED that this case be returned to the trial level for further proceedings and decision in accordance with the recommendation of the workers' compensation judge.

WORKERS' COMPENSATION
APPEALS BOARD

I CONCUR.

_____

_____

DATED AND FILED AT SAN FRANCISCO, CA

JAN 22 1980

SERVICE BY MAIL ON SAID DATE TO ALL PARTIES LISTED ON THE OFFICIAL ADDRESS RECORD.

WORKERS COMPENSATION APPEALS BOARD
State of California

WAYNE C. LA VELLE Applicant v TRANS WORLD AIRLINES; HARTFORND ACCIDENT & INDEMNITY COMPANY Defendant	Case. No. 76 LA 403 651 FINDINGS AND AWARD

-James George by Joseph M. Miller, attorney for applicant
-Even, Dalby & Cumming by F. Evans, attorney for defendant.

An application having been filed herein; all parties having appeared and Order Admitting Documentary Evidence and Notice of Intention to Submit having issued, the Honorable JESSE E FLUHARTY, Workers' Compensation Judge, Finds and Orders as follows:

1. Wayne C. La Velle, born January 15, 1946, did on February 18, 1976, sustain an injury to his lungs and internal organs as a result of inhalation of chemical fumes, arising out of and occurring in the course of his employment as an aircraft fleet serviceman by Trans World Airlines whose compensation insurance carrier was Hartford Accident & Indemnity Company.

2. Applicant's earnings were then

maximum.

3. The injury caused further temporary disability beginning March 27, 1976, to and including April 25, 1976, at $119.00 per week.

4. Applicant suffered no compensable permanent disability.

5. Further medical treatment to cure or relieve from the effects of this injury is not required.

6. There was no self-procured medical treatment.

7. There is no basis for apportionment.

8. Applicant reasonably, actually, and necessarily incurred expense for medical reports to prove contested cases payable $950.00 to Reuben Merliss, M.D. and $34.50 to Cogan Clinical Laboratory.

9. As there is no Award, there is no basis for an attorney fee.

10. Employment Development Department furnished benefits of $111.00 per week beginning March 25, 1976, to and including April 25, 1976, concurrently with temporary total disability indemnity in the total sum of $507.43.

11. Applicant's attorney has been successful in securing further temporary dis-

ability through his sole efforts, and so he will be allowed an attorney's fee of 10% of the Employment Development lien, amounting to $50.74.

AWARD

AWARD IS MADE in favor of Wayne C. LaVelle, applicant against Hartford Accident & Indemnity Company of further temporary disability indemnity beginning March 27, 1976, to and including April 25, 1976, at $119.00 per week, in the total sum of $510.00; together with payment of medical-legal costs in the sum of $950.00 payable to Reubin Merliss, M.D and $34.00 payable to Cogan Clinical Laboratory; less the sum of $507.43 payable to Employment Development Department as reimbursement for benefits furnished concurrently with temporary total disability.

ORDER

IT IS ORDERED that Employment Development Department pay directly to James George the sum of $50.74, attorney fee, as set forth in Finding N. 11.

JESSE E FLUHARTY
WORKERS COMPENSATION
JUDGE

Filed at San Francisco, CA

Served by mail to persons shown on
the official address record

OCT 10, 1979